THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO. 16303 of 2004

DATE: 18.10.2006

Between:
V. Murali Prakasha Rao

.... Petitioner

and

The District and Sessions Judge, Nellore.

.... Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO. 16303 OF 2004

ORDER: (Per Sri Bilal Nazki,J)

Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

The grievance of the petitioner is that he was entitled to be promoted as Copyist on 11.7.2003 when one Mr. Sk. Irshad was promoted. He had earlier been removed from service. Then the removal of service was challenged by way of Writ Petition No. 2743 of 1996 and this Court modified the punishment to stoppage of two increments without cumulative effect. This order was passed on 1.8.1996 and thereafter the petitioner was reinstated into service. He submits that when a post of Copyist became vacant, he had served the punishment and the punishment of stoppage of two increments under Rules could not be an impediment for him to be considered for promotion. But he was not considered for promotion and thereafter the Rules came to be amended and the qualification for Copyist when the petitioner was appointed or when the petitioner was entitled to be promoted prescribed was S.S.L.C.; whereas in 2003, these Rules have been amended and the qualification now required for a person to be a Copyist is Intermediate. Had the petitioner been promoted at the time he was due for promotion, the new Rules would not have come in his way. Therefore, the respondent should be directed to consider him for promotion when his junior Sk. Irshad was promoted.

We are afraid, we cannot give such a direction because whether Sk. Irshad was entitled to be promoted or whether the petitioner was entitled to be promoted on 11.7.2003 cannot be gone into in this writ petition because Sk. Irshad is not a party to the writ petition and the order promoting Sk. Irshad on 11.7.2003 was also not challenged in this writ petition.

Learned counsel submits that the Registrar of the High court has issued a Circular on 25.1.2005 whereby all the District Judges have been directed to relax the qualification bar while promoting the persons from Process Server to Copyist if the Process Server was appointed before the new Rules came into force.

We have gone through the Circular. This Circular is prospective and has been issued on 25.1.2005.

Accordingly, we dispose of the writ petition and direct the concerned District Judge to consider the case of the petitioner for promotion to the post of Copyist in terms of the Circular issued by the High Court on 25.1.2005. No costs.

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BILAL NAZKI,J

DATE: 18th October, 2006

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NOOTY RAMAMOHANA RAO,J

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